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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/363,728 07/29/99 KRISHNASWAMY

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EXAMINER

DAVID L WEINSTEIN COUNSEL
ABBOTT LABORATORIES
DEPT 377 AP6D/2
100 ABBOTT PARK ROAD
ABBOTT PARK IL 60064-6050

LE,U

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 11/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/363,728

Applicant(s)

KRISHNASWAMY ET AL.

Examiner

Uyen-Chau N. Le

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Please clarify that if the word “analyte” has been used throughout the disclosure actually means “analytic” or “analytical”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Böcker et al (US 5,507,288).

Re claim 1, Böcker et al shows and discloses hand-held analytic test instrument comprising a housing, a barcode reader 28, a port 17, a display 21. The barcode reader 28 is disposed in the housing for scanning a barcode associated with a test strip 13. The port 17 is disposed in the housing for receiving the test strip 13. The instrument also comprising an electronic circuit that in electrical communication with the port 17 for processing an analytic signal received from the test strip 13 and generating analytic data therefrom. The display 21 is in

Art Unit: 2876

electrical communication with the circuit for displaying certain analytical data. The instrument further comprises a connector in electrical communication with the circuitry and electrically connectable to a host computer via a data communications network, wherein the circuitry automatically uploads the analytical data to the host computer upon connection thereto. (See Figs. 1&2; col. 5, line 35 - col. 6, line 60; and col. 8, lines 25-28).

4. Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Davis (US 5,052,943).

Re claim 3, Davis shows and discloses a docking station 2 comprising a connector electrically 32 connectable to the instrument, a first data port in electrical communication being connectable to a computer for transferring data, and a second data port in electrical communication being connectable to a peripheral device for recharging the batteries (Fig. 1; col. 5, lines 5-68; and col. 10, lines 47-53). Furthermore, Davis inherently teaches a control mechanism for controlling the switch, which is in electrical communication with the connector, to selectively pass the analytical data to the computer or to the peripheral device (col. 5, lines 5-10; and col. 11, lines 24-30).

5. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Severt et al (US 5,511,108 – cited by the applicant).

Re claim 4, Severt et al teaches in claim 17 the method of managing data for a plurality of test instrument connected to a data communication network comprising step of detecting via a host computer the connection of each instrument to the data communication network; uploading data receiving from each instrument to the host computer; processing the uploaded data on the host computer for operator review; and downloading configuration data from the host computer to each test instrument.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Böcker et al (US 5,507,288) in view of Cargin, Jr. et al (US 5,602,456 – cited by the applicant).

Re claim 2, Bötcker et al shows and discloses hand-held analytic test instrument comprising a housing, a port 17, a display 21, and a battery compartment. The port 17 is disposed in the housing for receiving the test strip 13. The instrument also comprising an electronic circuit that in electrical communication with the port 17 for processing an analytic signal received from the test strip 13 and generating analytic data therefrom. The display 21 is in electrical communication with the circuit for displaying certain analytical data. The instrument

Art Unit: 2876

further comprises a connector in electrical communication with the circuitry and electrically connectable to a power source. The battery compartment is formed in the housing and inherently comprising a pair of electrical contacts for providing power from a battery to the electronic circuitry and a rechargeable battery disposed in a battery holder. (See Figs. 1&2; and col. 5, line 35 - col. 7, line 8).

Böcker et al, however, fails to disclose or fairly suggest that the battery compartment also comprising a pair of recharge contacts and a bus bar. The bus bar is disposed on the battery holder and in electrical communication with the pair of recharge contacts for recharging the batter when the instrument is connected to the power source.

On the other hand, Cargin, Jr. et al teaches that the battery compartment comprising those contacts 34, 35 and a bus bar 32 for recharging the battery directly without removing the battery out of the compartment 29, and for preventing the inadvertent and possibly hazardous application of recharging electrical power to non-chargeable batteries (col. 12, lines 42-46). For those reasons, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate those recharge contacts and a bus bar as taught by Cargin, Jr. et al into the test instrument battery compartment of Böcker et al.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2876

The patents to Kochis, Bishop et al., Hanson et al., Koenck et al., Friend et al., and Deuter are cited as of interest and illustrate a similar structure to an analytic test instrument system including data management system.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Uyen-Chau N. Le*** whose telephone number is 703-306-5588 and e-mail address is uyen-chau.le@uspto.gov. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3230 for regular communications and 703-305-3230 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Uchau Le

Uyen-Chau N. Le
Examiner
Art Unit 2876
November 19, 2000


THIEN M. LE
PRIMARY EXAMINER